

ASSEMBLY BILL

No. 1465

Introduced by Assembly Member Mountjoy

February 22, 2005

An act to amend Section 2653 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1465, as introduced, Mountjoy. Prisoners: medical treatment.

Existing law provides that the order of a physician for specified medical treatment may not be modified or canceled by any employee of the department without the approval of the chief medical officer of the institution or the physician in attendance except as specified. A person violating this provision is subject to disciplinary action by the Department of Corrections or the Department of the Youth Authority.

This bill would bar department facility staff other than a physician from interfering with the delivery of a treatment prescribed by a physician unless imminent risk of bodily harm to the physician, staff, or inmate requires alternate or modified procedures. A person violating that provision would be subject to appropriate disciplinary action by the department, and would be guilty of an infraction punishable by a fine of up to \$1,000. A 2nd or subsequent conviction for this offense would be punishable by a fine of up to \$2,000.

By defining a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2653 of the Penal Code is amended to
2 read:

3 2653. (a) If a physician employed by the Department of
4 Corrections or the Department of the Youth Authority certifies in
5 writing that a particular medical treatment is required to prevent
6 a violation of Section 147, 673, 2650, or 2652, or is required to
7 prevent serious and imminent harm to the health of a prisoner,
8 the order for that particular medical treatment may not be
9 modified or canceled by any employee of the department without
10 the approval of the chief medical officer of the institution or the
11 physician in attendance unless an inmate or ward has a known
12 history of violent or otherwise disruptive behavior that requires
13 additional measures to protect the safety and security of the
14 institution specified in writing by the warden or superintendent,
15 or unless immediate security needs require alternate or modified
16 procedures. Following any necessary modified or alternate
17 security procedures, treatment of the inmate or ward shall be
18 effected as expeditiously as possible.

19 Nothing in this section shall be construed to prevent a
20 registered nurse from questioning, or seeking clarification of, an
21 order from a physician that in the professional judgment of that
22 nurse endangers patient health or safety, or otherwise is contrary
23 to the professional ethics of the registered nurse.

24 (b) *If an inmate or ward is given a diagnosis, order, or*
25 *recommendation for treatment by a physician, no department*
26 *facility staff other than a physician may interfere with the*
27 *delivery of that treatment unless imminent risk of bodily harm to*
28 *the physician, staff, or inmate requires alternate or modified*
29 *procedures.*

30 (c) Any person who violates this section shall be subject to
31 appropriate disciplinary action by the department. *In addition, a*
32 *violation of subdivision (b) is an infraction punishable by a fine*
33 *of up to one thousand dollars (\$1,000). A second or subsequent*

1 *violation of subdivision (b) is punishable by a fine of up to two*
2 *thousand dollars (\$2,000).*

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the
8 penalty for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition of a
10 crime within the meaning of Section 6 of Article XIII B of the
11 California Constitution.